

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 20, 2009

D050631 Whispering Ridge Homeowners Association v. Chaudry

D052506 Whispering Ridge Homeowners Association v. Chaudry

The pending appeals, both entitled Whispering Ridge Homeowners Association v. A. Waheed Chaudry, Cases Nos. D050631 and D052506, are consolidated for consideration and disposition.

D050631 Whispering Ridge Homeowners Association v. Chaudry

D052506 Whispering Ridge Homeowners Association v. Chaudry

(consolidated) The orders are affirmed, except the trial court is directed to strike the October 2006 declarations of accrued interest for the third and fourth awards without prejudice to the Association's right to file new interest declarations upon entry of judgment. The parties shall bear their own costs on appeal. Haller, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

D053046 People v. Davis

The judgment is affirmed. Nares, Acting P.J.; We Concur: McIntyre, J., McDonald, J.

D053679 In re Angelica A. et al., Juveniles

The petition for rehearing is denied.

D053713 Pyle v. Maland/Jarman et al.

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

D052256 People v. Graham

D054791 In re Graham on Habeas Corpus

The pending petition for writ of habeas corpus, In re Scot Elwood Graham, D054791, is consolidated with the pending appeal, People v. Scot Elwood Graham, D052256, for disposition.

D052256 People v. Graham

D054791 In re Graham on Habeas Corpus

The judgment is affirmed. Graham's petition for writ of habeas corpus is denied because we addressed its subject matter on the merits in this opinion. O'Rourke, J.; We Concur: Benke, Acting P.J., Huffman, J.

D053230 O'Sullivan v. City of San Diego

Upon written request filed by the parties, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

**D054847 San Diego Gas & Electric Company v. Superior Court of San Diego
County/Payne et al.**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 20, 2009 (Continued)

D054841 San Diego Gas & Electric Company v. Superior Court of San Diego County/Adams et al.
The petition is denied.

D054842 San Diego Gas & Electric Company v. Superior Court of San Diego County/Williams
The petition is denied.

D054845 San Diego Gas & Electric v. Superior Court of San Diego County/County of San Diego
The petition is denied.

D054846 San Diego Gas & Electric v. Superior Court of San Diego County/County of San Diego
The petition is denied.

D054844 San Diego Gas & Electric Company v. Superior Court of San Diego County/Interinsurance Exchange of the Automobile Club et al.
The petition for writ of mandate and opposition have been read and considered by Justices Huffman, McDonald and Irion. The petition is denied.

D054843 San Diego Gas & Electric Company v. Superior Court of San Diego County/Fire Insurance Exchange et al.
The petition for writ of mandate has been read and considered by Justices Huffman, McDonald and Irion. The petition is denied.

D054958 Weingarten v. Superior Court of San Diego County/Pointe San Diego Residential Community, L.P. et al.
The petition for writ of mandate and request for stay has been read and considered by Justices Huffman, McDonald and O'Rourke. The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 21, 2009

D054811 In re Marriage of Overton

Appellant's application for permission to appeal (Code Civ. Proc., § 391.7) was due on or before April 13, 2009. No application has been received. The appeal filed with the Superior Court on March 9, 2009, is dismissed.

D054346 People v. Rodriguez

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)

D053604 In re Valerie W. et al., Juveniles

The judgments are affirmed. McConnell, P.J.; We Concur: McDonald, J., Aaron, J.

D051998 People v. Hudson

The defendant's conviction for the section 496d offense is reversed. In all other respects, the judgment is affirmed. The matter is remanded to the trial court with directions to modify the judgment accordingly and forward an amended judgment to the County of San Diego Probation Department. McDonald, J.; We Concur: McConnell, P.J., Aaron, J.

D053439 Justis v. Kelly

Upon written stipulation filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

D053370 In re Kenneth J., a Juvenile

The true finding is affirmed. The case is remanded to the juvenile court for a determination whether the offense is a felony or a misdemeanor and, if the former, for a calculation of the maximum period of confinement. McDonald, J.; We Concur: McConnell, P.J., McIntyre, J.

D054328 In re Angelina G. et al., Juveniles

The orders are affirmed. Benke, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

D052319 People v. Lincoln General Insurance Company

Affirmed. Irion, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

April 21, 2009 (Continued)

D054621 People v. Palos

The trial court shall enter an amended abstract of judgment reflecting that Palos is entitled to 767 days actual credit and 115 days conduct credit and shall forward a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation. In all other respects the judgment is affirmed. Irion, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D053252 Bruno v. Matrixx Initiatives, Inc., et al.

The judgment is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., Huffman, J.

D054963 Milczewsky v. Superior Court of San Diego/San Diego Department of Child Support Services

The petition for writ of mandate and request for immediate relief have been read and considered by Justices Benke, McDonald and O'Rourke. The petition is denied.

D054155 In re F.R. et al., Juveniles

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D054946 Marin v. Sweet Enterprises, LLC

The court has read and considered Mel Marin's "Motion for Leave to Appeal and Affirmation in Support" filed on April 14, 2009. Marin has not shown that an appealable order or judgment has been entered and that he filed a timely notice of appeal. The motion is denied.

D054605 Harris v. San Diego Gas & Electric

Pursuant to California Rules of Court, rule 8.140, the cross-appeal filed February 20, 2009, is dismissed for appellants' failure to timely designate the record (Cal. Rules of Court, rule 8.121(a)).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 22, 2009

D054758 Wetherill et al. v. Superior Court of Imperial County/Continental Residential, Inc.

The petition is denied.

D052816 People v. Corleone

The judgment is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., Huffman, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 23, 2009

D054318 San Diego County Schools Fringe Benefits Consortium v. Allred et al.

Appellant's request for dismissal of the appeal is granted. The appeal filed on December 17, 2008, is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

D052435 People v. Lambert

The judgment is affirmed. O'Rourke, J.; I Concur: Nares, Acting P.J.,
I Dissent: McDonald, J. (by opinion)

D053742 In re J.C., a Juvenile

The order is reversed. O'Rourke, J.; We Concur: Nares, Acting P.J., Irion, J.

D052722 People v. Coon

The judgment is affirmed. CERTIFIED FOR PARTIAL PUBLICATION. McConnell, P.J.;
We Concur: Haller, J., Aaron, J.

D054321 In re Cass on Habeas Corpus

The petition is denied.

D053864 Cauchon et al. v. Forest River, Inc.

D054433 Cauchon et al. v. Forest River, Inc.

Appellant's unopposed motion to consolidate the above-entitled appeals is granted. All documents will be filed under D053864. Appellant's request for an extension of time to file the opening brief is granted. Appellant's opening brief is due 30 days from the date of this order.

D054349 In re Mizicko on Habeas Corpus

The petition is denied.

D054001 In re Daniel C., a Juvenile

The judgment is affirmed. Haller, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D053445 People v. Hernandez

The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., McIntyre, J.

D054956 MTS v. Superior Court of San Diego County/Balfour Beatty/Ortiz Enterprises, Inc., et al.

The petition is denied.

D054535 In re Shadek on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 23, 2009 (Continued)

D053577 F. L., a Minor, etc. v. Salzetti

On November 12, 2008, this court issued an order informing appellant that his then attorney of record on appeal, Donald J. Loftus, had been suspended from the practice of law and gave appellant 30 days to notify this court of the appointment of substitute counsel. This court has since granted three extensions of time for appellant to obtain counsel. The State Bar of California's website reflects attorney Loftus became eligible to practice law on February 11, 2009. On March 17, 2009, the court stated: "On the Court's own motion, appellant is given 30 days from the date of this order to obtain counsel. If appellant fails to obtain counsel within the allowed time, the case will be dismissed." Appellant's April 17, 2009, letter request for an additional extension of time to obtain counsel is denied. The appeal filed on July 29, 2008, is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 24, 2009

D053108 People v. Hearn

The judgment is modified by staying (§ 654) the sentence on count four. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward it to the Department of Corrections and Rehabilitation. McIntyre, J.;
We Concur: McConnell, P.J., Nares, J.

D053987 People v. Wyman

The judgment is modified to reflect a \$200 restitution fine (§ 1202.4, subd. (b)) and a \$200 parole revocation fine (§ 1202.45) in place of the \$800 fine and to reflect that the \$200 probation revocation fine (§ 1202.44) is now due. The trial court is directed to prepare an amended abstract of judgment and forward it to the Department of Corrections and Rehabilitation. Irion, J.; We Concur: McConnell, P.J., Nares, J.

D053578 People v. Love

In each case, the judgment is modified to reflect a \$200 restitution fine (§ 1202.4, subd. (b)) and a \$200 parole revocation fine (§ 1202.45) in place of the \$1,000 fines and to delete the reference to the \$200 probation revocation fine (§ 1202.44). The trial court is directed to prepare an amended abstract of judgment and forward it to the Department of Corrections and Rehabilitation. O'Rourke, J.; We Concur: Benke, Acting P.J., McDonald, J.

D053652 People v. Smith

The judgment is affirmed. Benke, J.; We Concur: McConnell, P.J., McDonald, J.

D054752 N.R. v. Superior Court of San Diego County/S.D. County Health & Human Services Agency

The attorney for petitioner N.R. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

D053158 MJB Development Group et al. v. Diamond Escrow, Inc., et al.

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed.

D055004 D'Angelo v. Superior Court of San Diego County/People

The petition for writ of mandate and request for stay have been read and considered by Justices Benke, McDonald and O'Rourke. Petitioner has not provided an adequate record for review. The petition is denied.